No. 80-1288

IN THE

Supreme Court of the United States

October Term, 1980

INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO ["IAM"], and IAM DISTRICT LODGE NO. 100,

Petitioners,

against

IBERIA AIR LINES OF SPAIN,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

RESPONDENT'S BRIEF IN OPPOSITION

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Statement of the Case

The facts are fully and accurately set forth in the decision of the district court (reproduced at pages 2a-32a of the Appendix to the Petition).

Reasons Why the Writ Should Not Be Granted

Petitioners have not even attempted to argue that this case presents any special or important reason for exercise of the Court's certiorari jurisdiction. None of the grounds for review set forth in Rule 17 is claimed to be present in this case. On the contrary, petitioners merely argue that the two courts below incorrectly determined (1) that the facts* did not justify equitable tolling of the ten-day period for requesting mediation by the National Mediation Board** for two days beyond the end of that period, *i.e.*, to February 22, 1979; and (2) that, even if the period should be so tolled, the Board's mediation services were not effectively invoked on that day. (Petition 19a-23a).

Petitioners do not, and could not, argue that the unique factual circumstances of this case are ever likely to arise again, or that this case presents any question of importance in the administration of the Railway Labor Act. The clearest indication that petitioners simply seek another hearing of their twice-rejected tolling argument is that their statement of the "Reasons for Granting the Writ" consists of nothing more than a near-verbatim repetition of their

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* Principally a snowstorm in Washington, D.C. on February 19-20, 1979, which did not prevent this Court or the National Mediation Board from operating normally on February 21.

** Section 6 of the Railway Labor Act, 45 U.S.C. §156, provides for such ten-day period. Petitioners do not raise here, and did not raise in the Court of Appeals, any question concerning the district court's construction of Section 6, in accordance with its plain meaning, as requiring that a request for mediation be made within ten days after termination of conferences in order to call into operation the status quo provisions of the Act. The National Mediation Board and the United States, both parties to the action in the district court, withdrew their appeals and thus acquiesced in the district court's clearly correct decision.

brief to the Court of Appeals. Respondent sees no reason why this Court, on a petition for certiorari, should be subjected to re-argument of the unique facts which the Court of Appeals, in agreement with the district court, held did not call for the tolling of the statutory period which petitioners urged.

In short, the petition presents no issue appropriate for consideration by this Court.

Conclusion

The petition for a writ of certiorari should be denied.

Dated: New York, New York
March 2, 1981

Respectfully submitted,

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